

Pro Se 14 (Rev. 09/16) Complaint for Violation of Civil Rights (Prisoner)

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF ALABAMA

2017 NOV 14 A 11:35

U.S. DISTRICT COURT
N.D. OF ALABAMATYRONE HARVEY
Plaintiff

(Write your full name. No more than one plaintiff may be named in a complaint.)

-v-

Case No. _____
(to be filled in by the Clerk's Office)

SEE ATTACHED

Defendant(s)

(Write the full name of each defendant who is being sued. If the names of all of the defendants cannot fit in the space above, please write "see attached" in the space and attach an additional page with the full list of names. Do not include addresses here. Your complaint may be brought in this court only if one or more of the named defendants is located within this district.)

1:17-cv-01914-VEH-TMP

COMPLAINT FOR VIOLATION OF CIVIL RIGHTS
(Prisoner Complaint)

NOTICE

Federal Rules of Civil Procedure 5.2 addresses the privacy and security concerns resulting from public access to electronic court files. Under this rule, papers filed with the court should *not* contain: an individual's full social security number or full birth date; the full name of a person known to be a minor; or a complete financial account number. A filing may include *only*: the last four digits of a social security number; the year of an individual's birth; a minor's initials; and the last four digits of a financial account number.

Except as noted in this form, plaintiff need not send exhibits, affidavits, grievance or witness statements, or any other materials to the Clerk's Office with this complaint.

In order for your complaint to be filed, it must be accompanied by the filing fee of \$400.00 or an Application to Proceed *In Forma Pauperis*.

Mail the original complaint and the filing fee of \$400.00 or an Application to Proceed *In Forma Pauperis* to the Clerk of the United States District Court for the Northern District of Alabama, Room 140, Hugo L. Black U.S. Courthouse, 1729 5th Avenue North, Birmingham, Alabama 35203-2195.

ATTACHED from (1)

"Defendants"

- 1.) 29th judicial circuit court (Prosecuting Agency)
- 2.) Jimmy Kilgore - Sheriff
- 3.) Quality Correctional Health Care (Medical Provider)
- 4.) TODD HOUSTON BARKSDALE (My ATTORNEY)

I. The Parties to this Complaint**A. The Plaintiff**

Provide the information below for the plaintiff named in the complaint.

Name

TYRONE HARVEY

All other names by which
you have been known:

ID Number

Current Institution

TALLADEGA County Jail

Address

P.O BOX B

TALLADEGA

AL

35161

City

State

Zip Code

B. The Defendant(s)

Provide the information below for each defendant named in the complaint, whether the defendant is an individual, a government agency, an organization, or a corporation. Make sure that the defendant(s) listed below are identical to those contained in the above caption. For an individual defendant, include the person's job or title (*if known*) and check whether you are bringing this complaint against them in their individual capacity or official capacity, or both. Attach additional pages if needed.

Defendant No. 1

Name

29th Judicial Circuit CourtJob or Title (*if known*)

Prosecuting Agency

Shield Number

Employer

TALLADEGA COURT HOUSE

Address

TALLADEGA

AL

City

State

Zip Code

☐ Individual Capacity☒ Official Capacity

Defendant No. 2

Name

Jimmy Kilgore

Job or Title (*if known*)

Sheriff

Shield Number

Employer

TALLADEGA County Jail

Address

P.O BOX B

TALLADEGA

AL

35161

City

State

Zip Code

☐ Individual Capacity☒ Official Capacity

Defendant No. 3

Name

QUALITY CORRECTIONAL HEALTHCARE

Job or Title (if known)

MEDICAL PROVIDER

Shield Number

Employer

TALLADEGA COUNTY JAIL

Address

P.O BOX B TALLADEGA County,

TALLADEGA

AL

35761

City

State

Zip Code

☐ Individual Capacity☒ Official Capacity

Defendant No. 4

Name

TODD Houston Rarksdale

Job or Title (if known)

ATTORNEY

Shield Number

Employer

TALLADEGA County Court House

Address

TALLADEGA

AL

City

State

Zip Code

☐ Individual Capacity☒ Official Capacity

II. Basis for Jurisdiction

Under 42 U.S.C. § 1983, you may sue state or local officials for the "deprivation of any rights, privileges, or immunities secured by the Constitution and [federal law]." Under *Bivens v. Six Unknown Named Agents of Federal Bureau of Narcotics*, 403 U.S. 388 (1971), you may sue federal officials for the violation of certain constitutional rights.

A. Are you bringing suit against (check all that apply):

☐ Federal officials (a *Bivens* claim)☒ State or local officials (a § 1983 claim)

B. Section 1983 allows claims alleging the "deprivation of any rights, privileges, or immunities, secured by the Constitution and [federal laws]." 42 U.S.C. § 1983. If you are suing under section 1983, what federal constitutional or statutory right(s) do you claim is/are being violated by state or local officials?

Due process rights has been violated - 1st, 2nd and 5th amendment has also been violated - NO MENTAL Health Doctor working at this Jail - Ineffective Counsel from Attorney, Also wrongful Incarceration!

- C. Plaintiffs suing under *Bivens* may only recover for violation of certain constitutional rights. If you are suing under *Bivens*, what constitutional right(s) do you claim is/are being violated by federal officials?

N/A

- D. Section 1983 allows defendants to be found liable only when they have acted "under color of any statute, ordinance, regulation, custom, or usage, of any State or Territory or the District of Columbia." 42 U.S.C. § 1983. If you are suing under section 1983, explain how each defendant acted under color of state or local law. If you are suing under *Bivens*, explain how each defendant acted under color of federal law. Attach additional pages if needed.

(SEE ATTACHED)

III. Prisoner Status

Indicate whether you are a prisoner or other confined person as follows (*check all that apply*):

- ☒ Pretrial Detainee
☐ Civilly committed detainee
☐ Immigration detainee
☐ Convicted and sentenced state prisoner
☐ Convicted and sentenced federal prisoner
☐ Other (explain)

N/A

IV. Statement of Claim

State as briefly as possible the facts of your case. Describe how each defendant was personally involved in the alleged wrongful action, along with the dates and locations of all relevant events. You may wish to include further details such as the names of other persons involved in the events giving rise to your claims. Do not cite any cases or statutes. If more than one claim is asserted, number each claim and write a short and plain statement of each claim in a separate paragraph. Attach additional pages if needed.

- A. If the events giving rise to your claim arose outside an institution, describe where and when they arose.

N/A

- B. If the events giving rise to your claim arose in an institution, describe where and when they arose.

NO MENTAL HEALTH DOCTOR or Staff working here and medical malpractice on my hand
 Date:

II
(D)

IV
(B)
BASIS FOR JURISDICTION / Statement of claim
(3)

- 1.) 29th Judicial Circuit court - has violated my Due process rights, and that's a 5th amendment right, I have been here 3 years on Drug Charges and have not been Indicted, AND my bond is impossible to make. Also my 1st and 2nd amendments have been Violated.
- 2.) Jimmy Kilgore - Sheriff of TALLADEGA county jail Also for 'wrongfull Incarceration.
- 3.) Quality Correctional Health care - Inappropriate medical treatment, NO MENTAL HEALTH PHYSICIAN. Also medical malpractice on my hand.
- 4.) TODD BARKSDALE - Ineffective Counsel - "my Attorney" Who is in and out of Drug rehab and never file's any of the motions I ask him to file, never answers my calls, or letters, or NEVER comes to visit me in TALLADEGA county jail, "NEVER". He allows my rights to be violated.

They ARE All liable for violation of Statute, Ordinance, and regulations. They All arose in my three year stay here.

C. What date and approximate time did the events giving rise to your claim(s) occur?

Attorney grievance was sent August 12, 2017 - on
its been 3 years in Violation of 1st 2nd and 5th Amendment

D. What are the facts underlying your claim(s)? (For example: What happened to you? Who did what? Was anyone else involved? Who else saw what happened?)

Ineffective Counsel - Violation of constitution rights - 1st 2nd 5th
Amendments Violated because of Due process violations -
and wrongful Incarceration Also civil rights violated ...

V. Injuries

If you sustained injuries related to the events alleged above, describe your injuries in detail.

N/A

VI. Relief

State briefly what you want the court to do for you. Make no legal arguments. Do not cite any cases or statutes. If requesting money damages, include the amounts of any actual damages and/or punitive damages claimed for the acts alleged. Explain the basis for these claims.

I want the courts to fix these sensitive situations!
I've been here over 3 years and have not been indicted
on drug charges because of (BAD Counsel - Ineffective
Counsel, violation of Due process and Due Diligence,
AND I wish the courts can drop charges because of
these violations of constitution rights) Also Money
for Mental Anguish because the fact of these
violations has caused much stress on me and
depression. Also praying the courts can change
the way the 29th judicial circuit court system
handles people's cases, stopping them from violating
other rights!

VII. Exhaustion of Administrative Remedies Administrative Procedures

The Prison Litigation Reform Act ("PLRA"), 42 U.S.C. § 1997(a), requires that "[n]o action shall be brought with respect to prison conditions under section 1983 of this title, or any other Federal law, by a prisoner confined in any jail, prison, or other correctional facility until such administrative remedies as are available are exhausted."

Administrative remedies are also known as grievance procedures. Your case may be dismissed if you have not exhausted your administrative remedies.

A. Did your claim(s) arise while you were confined in a jail, prison, or other correctional facility?

☒ Yes

☐ No

If yes, name the jail, prison, or other correctional facility where you were confined at the time of the events giving rise to your claim(s).

TALLADEGA County Jail

B. Does the jail, prison, or other correctional facility where your claim(s) arose have a grievance procedure?

☒ Yes

☐ No

☐ Do not know

C. Does the grievance procedure at the jail, prison, or other correctional facility where your claim(s) arose cover some or all of your claims?

☒ Yes

☐ No

☐ Do not know

If yes, which claim(s)?

MEDICAL Malpractice

- D. Did you file a grievance in the jail, prison, or other correctional facility where your claim(s) arose concerning the facts relating to this complaint?

☒ Yes

☐ No

If no, did you file a grievance about the events described in this complaint at any other jail, prison, or other correctional facility?

☐ Yes

☐ No

N/A

- E. If you did file a grievance:

1. Where did you file the grievance?

TALLADEGA County Jail

2. What did you claim in your grievance?

(Attorney Grievance)

Ineffectiveness violation of 1st 2nd and 5th amendments
Also - MEDICAL Malpractice - MY HAND

3. What was the result, if any?

most grievance was NEVER returned - others (NO HELP)

4. What steps, if any, did you take to appeal that decision? Is the grievance process completed? If not, explain why not. (Describe all efforts to appeal to the highest level of the grievance process.)

Appealed to the next level but nothing never happened, Talked to Stg. But still no help!!

I stop writing grievance because nothing never happens. the people you write the grievance on receive's the grievance every time and send it back blank most times

Grievance Commission

Aug 3 2017

"Attorney Grievance"

I Tyrone Harvey file this grievance on my counsel Todd Barksdale for reasons of.

Reasons for Ineffective Counseling

- 1.) He has not filed any of my motions I've ask him to file in the 3 years I've been locked up.
- 2.) There is NO Attorney Client relationship between my self and Mr. Barksdale.
- 3.) He has been in and out of drug rehab, and for these reasons he has played a big part in my Due process beeing violated.
- 4.) He's not in my best interest and wish to be granted new counsel for these reasons...

X Tyrone Harvey
Print: Tyrone G. Harvey
Respectfully

Sworn to and subscribed before me this 6th day
of November, 2017

Elin M. Jones

F. If you did not file a grievance:

1. If there are any reasons why you did not file a grievance, state them here:

The grievance was to the person / person's you write them on nothing never happens.

2. If you did not file a grievance but you did inform officials of your claim, state who you informed, when and how, and their response, if any:

Talked to Medical staff, Stg, and filed grievance. Nothing happened

G. Please set forth any additional information that is relevant to the exhaustion of your administrative remedies.

I've wrote jail request, talk to Attorney, wrote judge, etc, No Help

(Note: You may attach as exhibits to this complaint any documents related to the exhaustion of your administrative remedies.)

VIII. Previous Lawsuits

The "three strikes rule" bars a prisoner from bringing a civil action or an appeal in federal court without paying the filing fee if that prisoner has "on three or more prior occasions, while incarcerated or detained in any facility, brought an action or appeal in a court of the United States that was dismissed on the grounds that it is frivolous, malicious, or fails to state a claim upon which relief may be granted, unless the prisoner is under imminent danger of serious physical injury." 28 U.S.C. § 1915(g).

To the best of your knowledge, have you had any cases dismissed based on grounds that it was frivolous, malicious, or failed to state a claim upon which relief may be granted?

☐ Yes

☒ No

If yes, state which court dismissed your case(s), when this occurred, and attach a copy of the order(s) if possible.

N/A

A. Have you filed other lawsuits in state or federal court dealing with the same facts involved in this action?

☐ Yes

☒ No

B. If your answer to A is yes, describe each lawsuit by answering questions 1 through 7 below. (If there is more than one lawsuit, describe the additional lawsuits on another page, using the same format.)

1. Parties to the previous lawsuit

Plaintiff(s)

N/A

Defendant(s)

N/A

2. Court (if federal court, name the district; if state court, name the county and State)

N/A

3. Docket or index number

N/A

4. Name of Judge assigned to your case

N/A

5. Approximate date of filing lawsuit

N/A

6. Is the case still pending?

☐ Yes

☒ No

If no, give the approximate date of disposition.

N/A

7. What was the result of the case? (For example: Was the case dismissed? Was judgment entered in your favor? Was the case appealed?)

N/A

IX. Certification and Closing

Under Federal Rule of Civil Procedure 11, by signing below, I certify to the best of my knowledge, information, and belief that this complaint: (1) is not being presented for an improper purpose, such as to harass, cause unnecessary delay, or needlessly increase the cost of litigation; (2) is supported by existing law or by a nonfrivolous argument for extending, modifying, or reversing existing law; (3) the factual contentions have evidentiary support or, if specifically so identified, will likely have evidentiary support after a reasonable opportunity for further investigation or discovery; and (4) the complaint otherwise complies with the requirements of Rule 11.

I agree to provide the Clerk's Office with any changes to my address where case-related papers may be served. I understand that my failure to keep a current address on file with the Clerk's Office may result in the dismissal of my case.

Printed Name of Plaintiff

Prison Identification #

Prison Address

TYRONE HARVEY
70941
P.O BOX B TALLADEGA County Ala
TALLADEGA AL 35461
City State Zip Code

I declare under penalty of perjury that the foregoing is true and correct.

Executed on Nov. 2, 2017
(Date)

Tyrone Harvey
Signature of Plaintiff